

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

August Kersten, Brian Berube, and)	
Lonesome Dove, Inc.,)	
)	
Plaintiffs,)	ORDER
)	
vs.)	
)	Case No. 1:19-cv-085
City of Mandan,)	
)	
Defendant.)	

The court held a settlement conference with the parties at the U.S. Courthouse in Bismarck, North Dakota, on July 11, 2019. During the conference, the parties agreed, in effect, to an extension of the terms of a temporary restraining order issued by Chief Judge Hovland on May 22, 2019, which terms were continued upon good cause and by agreement on June 3, 2019. Progress has been made and the parties agree to continue their discussion in good faith, while preserving the status quo. The parties agree the City of Mandan will not enforce the subject ordinance against plaintiffs and others, during the pendency of the litigation, making a July 30, 2019, hearing on the motion for preliminary injunction unnecessary. The parties agree that the City of Mandan can take steps to establish a constitutionally sound ordinance. Such an ordinance, if lawfully passed and constitutionally sound, could be implemented and enforced, even during the pendency of this litigation. Finally, the parties agree that discovery, motions and other matters can continue as provided by the scheduling order.

More progress is expected, as the parties continue discussion toward resolving the matter. Pursuant to the parties' agreement, it is **ORDERED**:

1. The City of Mandan shall not enforce its mural ordinance against Plaintiff Lonesome Dove, Inc. or others subject to it, during the pendency of this litigation.
2. The City of Mandan may lawfully enact, implement and enforce a constitutionally sound mural ordinance during the pendency of this litigation.
3. The July 30, 2019, hearing before Chief Judge Hovland on Plaintiffs' Motion for Preliminary Injunction is cancelled.
4. The parties shall timely and in good faith continue settlement discussions.

Dated this 11th day of July, 2019.

/s/ Clare R. Hochhalter
Clare R. Hochhalter, Magistrate Judge
United States District Court